

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

AUNHK RA AUNHKHOTEP,)
)
Plaintiff,)
)
v.) Case No. 4:23 CV 540 RWS
)
OFFICER JOSEPH KOPFENSTEINER,)
et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

In their opposition to plaintiffs' motion for summary judgment (ECF 62), defendants argue that they, not plaintiff, are entitled to judgment as a matter of law on plaintiff's claims. Defendants did not file a motion for summary judgment, and their time for doing so has expired.

The Court gives plaintiff notice through this Memorandum and Order that it has the authority to grant summary judgment to defendants, even in the absence of a motion for summary judgment filed by defendants, if the undisputed facts and applicable law so warrant. *See Fed. R. Civ. P. 56(f)(1)* (noting that court may grant summary judgment for a nonmovant after giving notice and a reasonable time to respond).¹ Therefore, plaintiff should also respond to defendants'

¹ The Court is not suggesting that it will do so, only that it has the authority to do so, upon providing adequate notice and an opportunity to respond to plaintiff.

arguments that they are entitled to summary judgment in his reply brief if he wishes to be heard on this issue, as well on the issue of whether defendants' request for summary judgment should be denied as untimely raised under the case management order.

The Court has already given plaintiff until **September 6, 2024** to file any reply brief in support of his motion for summary judgment. If plaintiff requires additional time to prepare his reply in light of defendants' opposition to summary judgment, he should file a motion for additional time prior to September 6, 2024.

Accordingly,

IT IS HEREBY ORDERED that plaintiff should include any opposition to defendants' request for summary judgment in his reply brief, currently due no later than **September 6, 2024**. Any request for additional time should be filed prior to that date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 6th day of August, 2024.